REMARKS

Claims 1-11 are pending in the application. Claims 1, 2, 4 and 10 are amended as noted above. These amendments do not introduce new matter, and are supported by the present application.

1. Objections to the Specification Under 35 USC 132

In the Office Action, the last amendment was objected to as introducing new matter to the specification. Applicants disagree with this objection. Support for the specific language noted in the objection is found in the original application as filed. In particular, the paragraphs at page 6 line 13 through page 7 line 13 support the amended claim language both explicitly and inherently. Also, the application refers to the dissemination of information from the computer to the Indemnifying Agent and others for use in the invention and for incorporation into documents, such as the "Aggregate Reinsurance Agreement" as noted at page 10, line 16, and elsewhere in the specification. In addition, U.S. Patent No. 5,613,072, which was incorporated by reference, provides further support for the amended claim language. Moreover, it is well known that memory storage devices in computers store data in an electronic readable format, and that such data must be communicated to output devices to generate documents that display the data in humanly readable format. Therefore, Applicants submit that the original specification as understood by one of ordinary skill in the art would support the amendments made in the previous Amendment.

Nonetheless, the expedite allowance of this application, Applicants have canceled the specific language noted in the Office Action.

Despite this canceled, language from the claims, Applicants submit that the present claims still sufficiently overcome the previous rejection under 35 USC § 101. all the pending claims recite the storage of data in electronic readable format such as for use by a computer. Thus, the claims are within the "technological arts."

2. Claim Rejections Under 35 USC § 103

A. Claims 1-9

Claims 1-9 were rejected under 35 USC 103(a) as being obvious over King et al., US 5,704,045 (Hereinafter King), in view of Schwab, S., "The International Journal of Insurance Law 1997," 4:28-39, 175-178 (hereinafter Schwab), and further in view of "Insurance Law of the Peoples Republic of China" (hereinafter ILPRC). The rejection is traversed for the reasons noted below.

Claim 1

With regard to claim 1, paragraph (c), it is asserted in the Office Action that King at columns 7 and 8 discloses that the insolvent Insurance Company's reinsurers' obligations associated with liabilities are received. However, Applicants assert that King discloses no such teachings. The cited portions of King discuss the transfer of "reserved assets to [fiduciary] custodians." (col. 8, ln. 37). In that cited portion of King, there is no discussion of transferring reinsurer's obligations. Indeed, King teaches away from the present invention of claim 1, and in particular transferring reinsurer's

obligations as recited by claim 1, by noting that the invention of King requires a modification of laws to "further prohibit a liquidator from changing the terms of any contract or agreement or segregated assets allocated to reserves." (col. 8, lns. 17-19). For this reason, Claim 1 is patentable over the cited references.

In addition, with regard to claim 1, paragraph (b), in the Office Action it is asserted that Schwab teaches guaranteeing the payment of a fixed dividend. However, Applicants assert that Schwab discloses no such teachings. Indeed, Schwab does not disclose that the dividend payment is fixed, and does not disclose that the dividend is guaranteed. At most, at page 176, Schwab states that a liquidator may, under a final dividend plan, "allow" contingent claims at their net present value to participate in the plan and to immediately recover the reinsurer's obligation on those "allowed" claims. Schwab does not disclose whether the allowed contingent claims receive a "fixed dividend" or even how the logistics are handled to provide for how much those future claimants may receive. This procedure appears mainly as a device to allow the Liquidator to obtain the reinsurance recoverables prior to the value "contingent claims" becoming known. Even at that, there is no "guarantee that those "allowed" contingent claims would receive any dividend as Schwab noted that the Court still "allows reinsurers, and others, to contest whether a claim is subject to estimation and the value of a claim." (page 176, lns. 42-44). For this additional reason, Claim 1 is patentable over the cited references.

Moreover, there is no suggestion or teaching in King, Schwab or ILPRC to modify these references in combination to obtain the invention as recited in Claim 1. Each of

King and Schwab teach away from the invention as noted above. ILPRC merely provides statutory guidelines with laudatory goals that do not provide any specific teaching other than what is noted in the Office Action. None of these references teach the advantages associate with the present invention.

As noted in the application at page 4, the present invention has the following advantages:

> These methods have the following advantages: they guarantee claimants a prompt dollar certain payment on allowed claims that may substantially exceed, on a present value basis, the amount received under the currently used system of insurance company liquidation; and they transfer the risk and uncertainty regarding the amount of future loss development and uncollectible assets to the Indemnifying Agent. The methods also potentially reduce litigation over liquidation orders in a way that would be endorsed both by claimants and Insurance Companies alike. The methods also permit the orderly collection of the assets of the insolvent Insurance Company (which often consists of reinsurance which is due to be paid solely at the time the amount of the loss is determined in an NOD). Finally, the methods shift the risks of any future inefficient and inadequate estate administration to a new Deputy Liquidator.

Indeed, the motivations stemming from Schwab as noted in the Office Action would teach away from the present invention, and the advantages noted in the application. In particular, under the present invention, there is no abbreviation in paying claimants. Because of the time value of money, the receipt of the assets and reinsurer's obligations in present combined with the delayed obligation to pay future claimants in the future, allow for the Indemnifying Agent to guarantee a fixed dividend to claimants because it has the time to grow the assets in other investment vehicles until the point later in time when the claims mature. Thus, the risks of the shortall in asset value covering the claims is transferred from the claimaint as under the Schwab plan, to

the Indemnifying Agent, as under the present invention. Thus, the motivations in Schwab to wind down the estate and cut off claims to minimize administrative expenses are contrary to achieving the present invention, which relies on the potential of greater returns on the insolvent Insurance Company's assets when transferred to the Indemnifying Agent and the concomitant postponing payment of claims out of those assets until the claims mature. For this additional reason, the invention as recited in claim 1 is patentable over the combination of King, Schwab and ILPRC.

Claim 4

With regard to claim 4, paragraph (e), it is asserted in the Office Action that King discloses "determining a payment rate of said claims as a function of said shortfall." However, the actual claim language recites "determining a guaranteed payment rate of said claims as a function of said shortfall." King fails to disclose this limitation. The portions of King cited in the Office Action for this limitation relate primarily to determining shortfalls in reserve allocations and then adjusting capital accounts to bring the reserved accounts up to standards. Also, the cited portions of King also discuss the underwriting methodology used by underwriters at an insurance-entity to determine a premium to be charged to cover a certain insurable risk. Therefore, for this reason, Claim 4 is patent over King even combined with the cited references.

For the reasons noted above with regard to Claim 1, neither Schwab nor ILPRC disclose guaranteeing a payment rate. Thus, neither reference covers this gap in King. Moreover, the motivations for combining King, Schwab and ILPRC noted in the Office

Action teach away from modifying these references to achieve the present invention of claim 4 for the reasons note above with regard to Claim 1.

Claim 5

With regard to claim 5, this claim is patentable as being dependent on independent claim 4, which is patentable as noted above. However, Applicants submit that Claim 5 is separately patentable for the following reason.

In the Office Action, it is asserted that King, at column 13, lines 4-16, discloses "assigning to said claims a plurality of priorities and determining a plurality of guaranteed payment rates to correspond to said claims depending on the priority assigned to the claim" as recited in Claim 5. However, applicants assert that King fails to disclose this limitation.

At column 13, lines, 4-16, King discloses the subordination and priority of general claims of all types against an enterprises assets. Nowhere in that structure of priorities is there a prioritization of claims of an insured against the Insurance Company. Moreover, nowhere in King is there any disclosure of "determining a plurality of guaranteed payment rates" corresponding to the plurality of claim priorities. For this reason, claim 5 is separately patentable over the cited references.

B. Claim 10-11

Claims 10-11 were rejected under 35 USC 103(a) as being obvious over Hammond et al., US 5,712,984 (hereinafter Hammond) in view of King et al., US 5,704,045 (hereinafter King). The rejection is traversed for the reasons noted below.

Claim 10

With regard to claim 10, paragraph (d), it is stated in the Office Action that King discloses at column 20, line 64 though column 21, line 14, "determining the expected amount of the Reinsurer's obligations on the insurance claims for unstated amounts and calculating the present value of the Reinsurer's obligations." However, applicants submit that King fails to disclose this limitation.

Applicants submit that the cited portion of King discloses matching capital reserves and future earnings on the reserves to specific policy liabilities. There is no mention of reinsurance obligations, and the only mention of present value calculations relates to present values of liabilities of the outstanding insurance policies. Thus, King fails to disclose the limitation of paragraph (d).

With regard to claim 10, paragraph (e), it is stated in the Office Action that King discloses at columns 7, 8, 9, 10, 20, 22 and 23, various lines, "calculating a guaranteed payment rate against said claims as a function of the Insurance Company assets, the present value of the Reinsurer's obligations and the present value of underlying claims." However, applicants submit that King fails to disclose this limitation.

As noted above in the discussion of claim 1, King fails to disclose calculating a guaranteed payment rate against insurance claims. In addition, King fails to disclose determining the present value of reinsurer obligations and the present value of the underlying insurance claims. King discloses normal underwriting procedures for determining premiums to be charged for insuring events, and for determining assets to be reserved in view of those insured risks, as well as systems to managing the reserve

accounts. For managing the reserve accounts, King discloses determining the present value of the liabilities under outstanding insurance policies, but does not disclose making that calculation of the underlying claims.

Applicants admit that Hammond teaches determining the present value of the underlying claims, but fails to fill in the other gaps noted above for King. Therefore, Applicants submit that Claim 10 is patentable over the cited references for the above reasons.

Conclusion

Looking at the cited references as a whole, they teach away from the applicants claimed invention. Schwab teaches specific methods for winding down and paying claims against an insolvent insurance company, where the risk for increased shortfalls in the assets to cover the claims is borne by the claimants. The other cited references teach nothing different. The methods suggested by the cited prior art are at odds with the claimed methods, which require payment of insurance claims at a guaranteed rate in exchange for transfer of the assets to a third party, whereby the risk of shortfalls is transferred away from the claimants to the third party - the so-called third-party Indemnifying Agent. None of the references suggest such a risk transfer or the means to accomplish that as presently claimed. Therefore, independent claims 1, 4, and 10, as well as claims 2-3, 5-9 and 11 depending therefrom, are not obvious over the cited references.

Applicants respectfully submit that the rejections have been overcome in view of the above remarks and that the present claims are in condition for allowance. The

Examiner is kindly requested to phone the undersigned to clarify any remaining issues to expedite allowance.

Respectfully submitted,

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